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Manifest for a confederate Europe

Prof. Thomas Mayer, Prof. Justus Haucap, Prof. Stefan Kooths and Frank Schäffler

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Prometheus – Das Freiheitsinstitut gGmbH
Mulackstraße 29
10119 Berlin



We are concerned about Europe. The pioneers of the European idea wanted to overcome the division between the member states. They intended for a European society to develop gradually in free cooperation of the people across borders. Today, this cautious and evolutionary path of integration is in danger of being replaced by the hasty move towards centralized institutions. But institutions are based on consensus, and not the other way around. A centralized Europe threatens to jeopardize the success of integration as a whole.

When the European Monetary Union (EMU) was set up, the hope was still cherished that with the common institutions for monetary policy eventually also a broad agreement would evolve in questions of monetary and currency policy. This hope finally proved false. Also, it turned out that the member states were not willing to maintain the fiscal discipline and encourage the economic flexibility that are vital for a hard currency union. Because no provisions were made for the case of insolvency of states and the systematic liquidation of banks at their owners' and creditors' expense, the fundamentals of the EMU were undermined. In order to avoid state insolvencies and to keep every country in the EMU, from 2012 onwards the ECB effectively assumed the role of lender of last resort to precarious countries with its program for interventions in the secondary market for government bonds. States are therefore required to limit their national sovereignty in order to curb the resulting "moral hazard".

As a consequence highly indebted states are now bound to deal with their European partners as creditors instead of private creditors as it ought to be in a market economy. This provokes conflicts of interest between the states and sows the seed of discord in Europe. The banking union, aiming for a harmonization of financing conditions for the real economy, subjects financial institutions to centralized monitoring. Also, in the case of insolvency the liquidation is executed by a European institution while the costs are mutualized. Here, too, communitizing liability leads to political conflicts which would not arise when a market solution is provided. Overall, the strategy devised to safeguard the EMU results in a sudden erosion of national sovereignty and in a shift of pivotal national competences onto the European level.

Many European citizens reject the idea of a European central state and oppose handing over sovereignty to a European central state that lacks a convincing concept of regulatory policy and has no proper democratic legitimacy. In the course of handling the crisis centralized structures have been gradually built. It shows increasing evidence of an intervention spiral that is bound to go on and on. Debates on a joint budget for the EMU or European taxes without discussing organizational and financial competences of the central institutions is symptomatic of the deficient regulatory policy. In the centralist approach new competences assigned to the EU seem to be primarily instruments of macro management rather than part of an inherently consistent regulatory framework that could promote decentralized cooperation between European citizens. Only piecemeal actions to deal with pending challenges are debated and approved. No broad debate is initiated on the ultimate goal where these single steps might lead. At best, it is pointed out that the European Parliament ought to be given more leverage as a supervising authority for the European central state in order to diminish the "democracy deficit". However, the European Parliament is inept as an instrument for the democratic representation of the people. The German Constitutional Court assessed in its verdict on the Lisbon Treaty:

The European Parliament is not a representative body of a sovereign European people. This is reflected in the fact that it is designed as a representation of peoples in the respective national contingents of Members, not as a representation of Union citizens in unity without differentiation, according to the principle of electoral equality.



There is no broad debate on the impact that crisis management has had on the political organization of Europe. Attempts to initiate such a debate are constantly discredited as anti-European. In view of this it is hardly surprising that Euro-skeptic and nationalist forces grow stronger in nearly all EU countries. Those who cannot make out an alternative to a federal European central state with a poor democratic legitimation are often inclined to hold on to the nation state as safeguard against the European central state. **The idea of liberty, the rule of law and democracy in a peaceful Europe is imperiled by the conflict between the advocates of a European central state and the supporters of the nation state.** Whereas the central state model is by no means required to achieve a Europe united in peace and liberty.

We need a confederate Europe in the form of an association of states in order to preserve the European idea. A Europe that commits itself to the principles of liberty, the rule of law, democracy and subsidiarity. A Europe open to all the peoples of Europe who are willing to share these principles. In its verdicts on the Maastricht and Lisbon treaties the German Constitutional Court defined the European Union as a connection that goes beyond a commonwealth but lacks the characteristics of a federal state labeling it as an “association of states”. As it says in the verdict:

The concept of Verbund covers a close long-term association of states which remain sovereign, a treaty-based association which exercises public authority, but whose fundamental order is subject to the decision-making power of the Member States and in which the peoples, i.e. the citizens, of the Member States, remain the subjects of democratic legitimation.

And further:

The empowerment to transfer sovereign powers to the European Union or other intergovernmental institution permits a shift of political rule to international organisations. The empowerment to exercise supranational powers, however, comes from the Member States of such an institution. They therefore permanently remain the masters of the Treaties. In a functional sense, the source of Community authority, and of the European constitution that constitutes it, are the peoples of Europe with democratic constitutions in their states. The ‘Constitution of Europe’, international treaty law or primary law, remains a derived fundamental order. It establishes a supranational autonomy which undoubtedly makes considerable inroads into everyday political life but is always limited factually. Here, autonomy can only be understood - as is usual regarding the law of self-government - as an autonomy to rule which is independent but derived, i.e. is granted by other legal entities.

In an association of states sovereignty emanates from the peoples. In accordance with the subsidiarity principle they can transfer part of their sovereignty by contract to the European level while remaining in charge of the contracts and thus of the European level. It must be made possible for different peoples to work together more closely in various areas on a voluntary basis. As in every well-regulated community lower levels must be entitled to reclaim competences in order to react to changed conditions institutionally. The burden of proof for centralizing competences always lies with the central power.

The confederate Europe must lean on a free market order. Prosperity originates from the market competition of free entrepreneurs and free consumers. The state can support the increase in wealth by ensuring that unfettered competition is guaranteed on all markets. The European Union has the pivotal role of abolishing anticompetitive obstacles by the nation state (e. g. trade restrictions and subsidies).

The core principles of the European economic constitution are the common market for goods and services and free trade with the rest of the world. Opening national markets to



European competition must be pursued further. A common market in Europe must be part of a global system of free trade. A “fortress Europe” that seals itself off from other countries will entail prosperity setbacks for all European citizens. **The rules that apply to the common market also apply to the energy market. Here, grave market access restrictions must be eliminated. It is incompatible with the idea of competition that certain forms of energy production (e. g. nuclear and solar power) are privileged with funding and subsidies.**

Freedom of movement for people and capital are an integral element of the European Union. Freedom can be experienced in Europe by being able to choose the place where you work and live as well as your ways of investment freely. Yet, freedom and responsibility go hand in hand: everybody is liable for his actions. That is why we need competition on the field of social security systems. Various systems with different bundles of contributions and benefits can demonstrate their ability to perform and function. In the long run the most efficient ones will prevail and can serve as paragons. Efficiency, of course, is not measured by the scale of distribution but by the extent to which the system is able to balance the protection people are looking for and their willingness to contribute.

Freedom to travel, provided by the Schengen Agreement, is a high value. Still, the partly chaotic way in which the Schengen countries tried to deal with refugees coming from the crisis areas in the Middle East and Africa has revealed that, to begin with, the right preconditions have to be established in order to secure open borders internally even under the current circumstances. We need (1) a joint external border security; (2) congruent criteria for granting political asylum; (3) common criteria about how to deal with refugees that evidently cannot claim political asylum; (4) a joint budget to fund the accommodation of asylum seekers and refugees and to manage payments to compensate more receptive countries. States that are not able or willing not comply with these requirements must be excluded from the Schengen Area.

Instead of conjuring up the failure of the European Union in light of the problems of the Schengen Area, as it was done before in the Euro crisis, the agreement ought to be developed further as soon as possible. In the context of the asylum policy it becomes apparent again that consensus cannot be replaced by common institutions. Rather, whatever is supposed to be coordinated by a community has to be guided by consensus. Decisions cannot be forced by a country like Germany declaring its conceptions to be a benchmark for all of Europe, but then demanding solidarity from its partners in dealing with the burdens attached to this concept. The bunker mentality some countries show in the asylum issue can be deemed wrong – as it is done by the authors of this Manifest. This does not, however, suspend the necessity of finding a consensus on the issue.

The confederate Europe requires a liberal monetary policy that does not divide Europe into different classes in respect of the common currency. Additionally, states that will not, in the foreseeable future, join the EMU must have a place in the European community.

Originally the common currency was supposed to be in effect for all European countries. Currently membership of the EMU seems to be attractive mainly for small and frail countries who expect to improve their international standing and maybe even to get access to financial support, while bigger and stronger countries fear economic disadvantages and political weakening to be the result of their joining the EMU. The shift of sovereignty of EMU countries onto the EU level in the course of the efforts to stabilize the Euro has led to an increasing exclusion of the other EU states. In the United Kingdom, for instance, this trend towards ever closer union has kindled forces that pursue a Brexit.



If we want to avoid splitting Europe we must not continue politicizing the Euro and the EMU must be restored as an open hard currency union. The key properties of the Maastricht Treaty were:

- (1) the ECB is solely committed to the preservation of price stability; growth stimulation or financial stability must not be equal or subordinate objectives;
- (2) financing government spending by monetization is strictly forbidden;
- (3) bailing out financially troubled states by the EU or other states is strictly forbidden.

By these properties the EMU was supposed function in a similar way to the gold standard. Yet, it was omitted to show clearly the consequences of economic misconduct. In a gold standard system over-indebted countries have to declare insolvency. If they are not ready to lower costs and prices or if they are not willing or capable to abide by severe budget restrictions they have to break away from the gold standard and have to let their currency depreciate. In order to maintain the EMU's original claim of being a hard currency union state insolvencies must be possible and, as a last consequence, even leaving the monetary union.

In a confederate Europe it must be possible for several currencies to coexist. Next to the Euro other common currencies, national currencies and private currencies must be admitted. Competing currencies currently emerge as electronic means for paying and saving. Citizens ought to be allowed to conclude contracts by mutual agreement in a currency of their own choice. Also, they ought to be allowed to pay their taxes and charges in whatever currency they choose.

The confederate Europe needs a free common market for financial services. To this end financial institutions have to be organized in a manner that they can stand in competition with each other even under adverse circumstances without support by the state. We hence need an insolvency statute for all banks including “Systemically Important Financial Institutions”. The concept of “too big to fail” is not compatible with a free market order. The insolvency statute must apply to the entire common market. National authorities must not have any scope when liquidating banks. Else, competition is distorted because differing expectations are raised in various countries regarding the handling of bank creditors. The same problem occurs when bank deposits are secured by national insurances: banks from financially strong countries can go into debt at a lower price because depositors are more likely to trust these insurances.

Like any entrepreneur, bank owners and creditors (not taxpayers) shall also bear the entrepreneurial risks of banking. Payment transactions must be safeguarded and customers must have secure deposits. Thereto, it must be facilitated that banks can secure account deposits by depositing central bank money with the central bank.

The European Union guarantees peace and freedom in Europe. But its structures were devised in a 20th century Europe that was divided and threatened from the outside. The idea of ever closer union was developed in the post-war era in a small circle of more or less homogenous countries and with France and Germany at its center. It is not fit for purpose a big and open Europe. For the EU to perform its functions also in the 21st century its structures must be adapted. The model of a federal state is not compatible with a diverse and open Europe. That is why Europe needs a confederate structure. It is time to start a broad debate on the right model for Europe.